

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2021

COUNCIL BILL NO. 21-0401
COMMITTEE OF REFERENCE:
4 Finance and Governance

5 A BILL

6
7 For an ordinance amending various subsections of the Code of Ethics, Chapter 2,
8 Sections 2-51 through 2-69 of the Revised Municipal Code in order to update complaint
9 and inquiry procedures and modernize language.

10
11 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

12 **Section 1.** That Article IV of Chapter 2, D.R.M.C. s shall be amended by deleting the language
13 stricken and adding the language underlined, to read as follows:

14 **Sec. 2-51. - Legislative intent.**

15 It is the intent of the city that its officers, officials, and employees adhere to high levels of ethical
16 conduct, honesty, integrity and accountability, so that the public will have confidence that persons in
17 positions of public responsibility are acting for the benefit of the public. Officers, officials, and
18 employees should comply with both the letter and spirit of this ethics code and strive to avoid
19 situations, that create impropriety or the appearance of impropriety.

20 The council and mayor recognize that ethical issues will arise in the course of public service. It
21 is the intent of the code of ethics:

22 (1) To clarify which actions are allowed and which constitute a breach of the public trust and,
23 specifically relating to the use of public office for private gain, employment and supervision of family
24 members, gifts, conflicts of interest, prior employment, outside employment, subsequent employment,
25 improper use of confidential information or records and other ethics matters not inconsistent with the
26 Charter;

27 (2) To establish a board of ethics empowered to issue advisory opinions so that officers,
28 officials, and employees may seek guidance about ethical issues connected with their service; and

29 (3) To establish a system that enables citizens to report possible wrongdoing and seek
30 enforcement so that any breach of the public trust may be discovered and dealt with appropriately.

31 The City Charter addresses the ethical conduct of officers, employees, and officials. It is the intent of
32 this article that it shall serve to enhance and clarify the Charter and to provide practical guidance.

33 Agencies may adopt a stricter code of ethics for their own use through published rules or policies.

1 Those agencies which wish to adopt a stricter code of ethics are encouraged to consult with the board
2 of ethics, shall provide information and training to employees of the agency, and shall provide a copy
3 to the board of ethics.

4 **Sec. 2-52. - Definitions.**

5 (a) *Employee* means any person in the employ of the city or of any of its agencies or
6 departments and any person employed without compensation.

7 (b) *Direct official action* means any action which involves:

8 (1) Negotiating, approving, disapproving, administering, enforcing, or recommending for or
9 against a contract, purchase order, lease, concession, franchise, grant, business loan or other similar
10 instrument in which the city is a party. With regard to "recommending," direct official action occurs only
11 if the person making the recommendation is in the formal line of decision making.

12 (2) Enforcing laws or regulations or issuing, enforcing, or regulating permits, licenses,
13 benefits or payments;

14 (3) Selecting or recommending vendors, concessionaires, or other types of entities to do
15 business with the city;

16 (4) Appointing and terminating employees, temporary workers, and independent contractors.

17 (5) Doing research for, representing, or scheduling appointments for an officer, official, or
18 employee, provided that these activities are provided in connection with that officer's, official's, or
19 employee's performance of (1) through (4) above.

20 Direct official action does not include acts that are purely ministerial (that is, acts which do not affect
21 the disposition or decision with respect to the matter). With regard to the approval of contracts, direct
22 official action does not include the signing by the mayor, the auditor, the manager of finance or the
23 clerk, as required by Charter, unless the mayor, auditor, the manager of finance or clerk initiated the
24 contract or is involved in selecting the contractor or negotiating or administering the contract. A person
25 who abstains from a vote is not exercising direct official action.

26 (c) *Immediate family* means husband, wife, son, daughter, mother, father, step-son, step-
27 daughter, step-mother, step-father, father or mother-in-law, son or daughter-in-law, brother or sister-in-
28 law, half-brother, half-sister, aunt, uncle, nephew, niece, grandmother, grandfather, grandchildren,
29 brother, sister, domestic partner, any person with whom ~~he or she is~~ they are cohabiting, and any
30 person whom ~~he or she is~~ they are engaged to be married. The term includes any minor children for
31 whom the person or ~~his or her~~ their domestic partner provides day-to-day care and financial support. A
32 "domestic partner" is an unmarried adult, unrelated by blood, with whom an unmarried officer, official,
33 or employee has an exclusive committed relationship, maintains a mutual residence, and shares basic
34 living expenses.

1 (d) *Officer* means any of the following: the mayor, the auditor, the members of city council,
2 the clerk and recorder, the manager of transportation and infrastructure, the manager of parks and
3 recreation, the manager of finance, the manager of public health and environment, the manager of
4 general services, the manager of safety, the city attorney, the manager of human services, the
5 manager of aviation, and the manager of community planning and development.

6 (e) *Official* means a member of a city board or commission.

7 (f) *Donor* means an individual or entity that has an existing, ongoing, or pending contract,
8 business, or regulatory relationship with city, or a lobbyist or other representative for any such
9 individual or entity. The term "donor" does not include the city itself including any department, agency
10 or other unit of the city and county, or any officer, official or employee of the city, when the gift or
11 donation is paid for by funds appropriated by the city.

12

13 **Sec. 2-53. - Board of ethics.**

14 (a) *Creation and appointment.* There is hereby created a board of ethics to consist of five (5)
15 members. The purpose of the board shall be to issue advisory opinions and waivers on ethical issues
16 arising under this article and to hear inquiries or complaints and issue findings and recommendations
17 regarding alleged violations of this article.

18 (b) *Qualifications.*

19 (1) One (1) and only one (1) member of the board of ethics shall be an officer or employee
20 of the city.

21 (2) At least one (1) member of the board of ethics shall be a former judicial officer.

22 (3) At least one (1) member of the board of ethics shall have expertise in ethics acquired
23 through education or experience.

24 (c) *Method of appointment.*

25 (1) The member of the board of ethics who is an officer or employee of the city shall be
26 nominated by the mayor and appointed by council acting by ordinance.

27 (2) The mayor shall appoint two (2) of the remaining members.

28 (3) The council shall appoint the other two (2) members by ordinance.

29 (4) All appointments regardless of appointing authority must be selected from a list of at
30 least three (3) nominees per vacancy submitted by the board of ethics nomination committee.

31 a. The board of ethics nomination committee shall be composed of three (3)
32 members with one (1) member appointed by the mayor, one (1) member appointed by the council and
33 one (1) member appointed by the presiding judge of the Denver County Court, each serving a term of
34 four (4) years and shall meet only whenever a vacancy under this section occurs. Officers, employees

1 and officials of the city shall not be eligible for appointment to or service on the committee. Members
2 of the committee shall not receive any salary or compensation for their services.

3 b. The committee shall issue a public vacancy notice and call for applications no
4 later than fifteen (15) days after the vacancy occurs. The committee may issue a public vacancy notice
5 upon the receipt of notice of the resignation or removal of any board member under subsection (e)
6 without waiting for the effective date of such notice. The committee shall also issue a public vacancy
7 notice ninety (90) days before the expiration of any current board member's term of appointment.

8 c. The committee shall review applications and conduct screening interviews as it
9 deems necessary. The committee shall certify a list of at least three (3) nominees to the appointing
10 authority no later than thirty (30) days after the public application period has closed. The appointing
11 authority shall make its appointment within no longer than forty-five (45) days after receiving the
12 certified list of nominees. The appointing authority may reject the list of nominees and request a new
13 list from the committee.

14 d. Whenever an incumbent member of the board of ethics wishes to apply for
15 reappointment to another term on the board, the member shall so advise the board of ethics
16 nominating committee in writing at least ninety (90) days in advance of the expiration of the member's
17 current term. The committee shall then proceed to interview the member and determine whether or not
18 to recommend to the incumbent's appointing authority reappointment to the board for another term. If
19 the committee determines that the incumbent should not be reappointed, the committee shall proceed
20 to issue a public vacancy notice for the seat as provided in paragraph b. of this subsection. If the
21 committee determines to recommend reappointment of the incumbent for another term, the committee
22 shall forward the recommendation to the incumbent's appointing authority. If the appointing authority
23 decides not to reappoint the incumbent, then the committee shall proceed to issue a public vacancy
24 notice for the seat as provided in paragraph b. of this subsection.

25 (d) *Terms of appointment.*

26 (1) Members shall be appointed to terms of four (4) years; however, the first member
27 appointed by the mayor and the first member appointed by the council shall initially serve two-year
28 terms to achieve staggered ending dates.

29 (2) If a member is appointed to fill an unexpired term, that member's term shall end at the
30 same time as the term of the person being replaced.

31 (3) Each member shall continue to serve until a successor has been appointed, unless the
32 member is removed or resigns.

33 (e) *Removal.*

34 (1) The unexcused absence of any member of the board from three (3) consecutive

1 meetings, unless the board has excused the absence for good and sufficient reasons as determined
2 by the board, shall constitute a resignation from the board.

3 (2) The appointing authority may remove a member for inappropriate conduct before the
4 expiration of the member's term, including, but not limited to, violation of the restrictions set forth in
5 subsection (h) of this section. Before removing a member, the appointing authority shall specify the
6 cause for removal and shall give the member the opportunity to make a personal explanation. Before
7 removing the member who is jointly appointed, either the mayor or the council shall specify the cause
8 for removal and the mayor and council shall give the member the opportunity to make a personal
9 explanation. Members appointed by the council and the member who is nominated by the mayor and
10 appointed by council may only be removed by ordinance.

11 (f) *Compensation.* Members of the board of ethics shall serve without compensation. The
12 member who is an officer or employee of the city shall not receive any additional compensation for
13 serving on the board of ethics. Members may be reimbursed for reasonable expenses pursuant to the
14 rules of the city.

15 (g) *Consultation with city attorney.* The board of ethics may consult with the city attorney or
16 a designee of the city attorney regarding legal issues which may arise in connection with this article
17 and may request advisory assistance from the city attorney in conducting hearings on inquiries during
18 any stage of the process.

19 (h) *Disqualification.* Any member or employee of the board of ethics shall disqualify ~~himself~~
20 ~~or herself~~ themselves from participating in any matter before the board in which ~~his or her~~ their
21 impartiality might reasonably be questioned, including, but not limited to, instances where ~~he or she~~
22 ~~has~~ they have a personal bias or prejudice concerning a party or personal knowledge of or
23 involvement in disputed evidentiary facts concerning the matter; or instances where the member made
24 or solicited campaign contributions or endorsements or provided volunteer services for the campaign
25 of a candidate for any office within the board's jurisdiction or of an individual currently within the
26 board's jurisdiction. In the event that an employee of the board of ethics receives a request for an
27 advisory opinion, a request for a waiver or an inquiry from which the employee is disqualified, and the
28 employee has recused ~~himself or herself~~ themselves, the board shall request a designee of the city
29 attorney or a member of the board to perform all functions the employee would otherwise perform.
30

31 **Sec. 2-54. - Advisory opinions and waivers.**

32 (a) Any current or former officer, official, or employee or the appointing authority of a non-
33 elected officer, an official, or an employee may submit a written request to the board of ethics for
34 advisory opinions on whether any conduct by that person would constitute a violation of the code of

1 ethics. The board of ethics shall render an advisory opinion pursuant to written rules adopted by the
2 board, but in no case shall the board take longer than ~~six (6)~~ eight (8) weeks from the time it received
3 the request to issue an advisory opinion or to give written notice explaining the reason for delay and
4 stating an expected issuance date.

5 (b) The board of ethics may render advisory opinions to individuals who intend to become
6 employees, officers, or officials upon written request of the person or the person's appointing authority.
7 The board of ethics shall render an advisory opinion pursuant to written rules adopted by the board.

8 (c) The board of ethics may publish its advisory opinions. It shall do so with deletions as
9 may be lawful and necessary to prevent disclosure of the identity of the individual involved. The board
10 may publish abstracts or guidelines based on advisory opinions if the subject of the opinion may be of
11 general interest and guidance.

12 (d) A person whose conduct is in accordance with an advisory opinion or a published
13 unreversed advisory opinion of the board of ethics shall not be found in violation of any of the
14 provisions of this article, provided that the information received by the board was factually accurate
15 and complete.

16 (e) Noncompliance with advisory opinions. When the board of ethics has reason to believe
17 that the advisory opinion has not been complied with, it shall inform the person, the person's
18 appointing authority, and the city attorney. The appointing authority, after consulting with the city
19 attorney, shall take appropriate action to ensure compliance.

20 (f) Waivers. Any current, former, or prospective officer, official, or employee may submit a
21 written request for a waiver of any provision of the code of ethics in advance of taking any action that
22 is subject to the waiver request. The board of ethics is empowered to grant a waiver if it finds that the
23 waiver will serve the best interests of the city. The board shall issue appropriate notice of its meeting
24 on the waiver and its meeting shall be open to the public. The board shall either issue or deny the
25 waiver in writing including a statement of reasons released to the public within six (6) weeks of
26 receiving the request. All waiver decisions shall remain available on the board's public website.

27

28 **Sec. 2-55. - Complaints or inquiries to the board of ethics.**

29 Any person may file an official written complaint or inquiry with the board of ethics asking
30 whether a current officer, official, or employee has failed to comply with this code of ethics. The
31 executive director may file an official written inquiry with the board of ethics asking whether a current
32 officer, official, or employee has failed to comply with this code of ethics. Subject to section 2-56 and
33 the rules adopted by the board pursuant to section 2-56, the board of ethics shall:

34 (1) Conduct a hearing in a meeting, which shall be open to the public on all official written

1 complaints or inquiries which have not been dismissed pursuant to paragraph (6) of section 2-56 or
2 resolved under paragraph (7) of section 2-56.

3 (2) Except as otherwise provided in this article, make public written findings and
4 recommendations, if any, on complaints or inquiries. Board findings should characterize the
5 seriousness of the violation, if any.

6 (3) Inform the person who is the subject of the complaint or inquiry and the person who
7 submitted the complaint or inquiry of its findings, and recommendations; and

8 (4) If the person who is the subject of the complaint or inquiry is an employee, non-elected
9 officer, or appointed official, and if the board feels corrective action may be necessary, notify the
10 person's appointing authority and recommend that the appointing authority take action, appropriate to
11 the finding, including discipline. If the person who is the subject of the complaint or inquiry is an
12 elected officer, the board may propose actions appropriate to the finding, ranging from a
13 recommendation that the person abstain from further action on the matter or seek a waiver, to
14 adopting a resolution reprimanding the person, or referring the matter to the appropriate authority.

15
16 **Sec. 2-56. - Procedures for complaints or inquiries.**

17 (a) The board of ethics shall adopt written rules for complaints or inquiries that create a
18 process that is fair both to the person who submitted the complaint or inquiry and the person who is
19 the subject of the complaint or inquiry. In addition to rules which the board may in its discretion adopt,
20 the rules shall:

21 (1) Establish time lines for all aspects of its handling of complaints or inquiries. The time
22 lines shall be sufficiently long to enable a person who is the subject of a complaint or inquiry to have
23 adequate time to understand the complaint or inquiry and prepare a response. The rules shall allow
24 the board to alter the time lines upon a request of the subject of a complaint or inquiry for more time to
25 prepare;

26 (2) Require the complaint or inquiry to be in writing on a form approved by the board, to be
27 signed, and to show the home or business address, electronic-mail address and telephone number of
28 the person who submitted it. The form shall contain a statement that must be signed and which states
29 that, to the best of the person's knowledge, information, and belief formed after reasonable reflection,
30 the information in the complaint or inquiry is true. The rules shall require the complaint or inquiry to
31 describe the facts that constitute the alleged violation of this code of ethics in sufficient detail so that
32 the board and the person who is the subject of the complaint or inquiry can reasonably be expected to
33 understand the nature of any offense that is being alleged; The form for executive director inquiries
34 shall contain a citation to the code about which the inquiry is based, a statement of facts that are

1 available at the time the inquiry is filed, and copies of all non-testimonial evidence, if available, at the
2 time the inquiry is filed;

3 (3) Prohibit the board from accepting complaints or inquiries about actions that took place
4 more than two years prior to the date of filing;

5 (4) Require the board to notify the person who is the subject of the complaint or inquiry that
6 a complaint or inquiry has been filed. The rules shall require the board to provide the notification in a
7 timely manner, but no more than ~~five (5)~~ seven (7) days from the day the complaint or inquiry was
8 filed, provided that they shall require the board to notify the person who is the subject of the complaint
9 or inquiry immediately if ~~he or she~~ they so requests. The rules shall require the notification to include a
10 copy of the full complaint or inquiry; a copy of any portion of this article that is alleged to have been or
11 that may be violated; and the board's rules for dealing with complaints or inquiries;

12 (5) Require the board to provide the subject of the complaint or inquiry with a copy of the
13 complaint or inquiry before it provides copies to any other parties. The rules shall recognize that
14 distribution to the public of a complaint or inquiry prior to screening by the board as required in (6)
15 below could harm the reputation of an innocent person and is contrary to the public interest; therefore,
16 the rules shall prohibit the public release of the complaint or inquiry until the screening process in (6)
17 below has been completed;

18 (6) Require the board or a committee of the board to consult in confidence within ~~thirty-one~~
19 ~~(31)~~ thirty-five (35) days of receiving a complaint or inquiry to screen the complaint or inquiry. The
20 rules shall allow the board to immediately dismiss a complaint or inquiry if:

- 21 a. It has no jurisdiction;
- 22 b. The alleged violation, if true, would not constitute a violation of this article;
- 23 c. The alleged violation is a minor or de minimis violation;
- 24 d. The complaint or inquiry is, on its face, frivolous, groundless, or brought for
25 purposes of harassment;
- 26 e. The matter has become moot because the person who is the subject of the
27 complaint or inquiry is no longer an officer, official, or employee;
- 28 f. The person who is the subject of the complaint or inquiry had obtained a waiver or
29 an advisory opinion under section 2-54 permitting the conduct; or
- 30 g. The appointing authority has already taken action as a result of finding a violation
31 and the board believes the action was appropriate.

32 The rules shall require the dismissal and the reason for dismissal to be in writing and available to the
33 public.

34 (7) Allow the board, at its discretion, to make a finding solely on the basis of written

1 arguments without holding a public hearing, if it determines that there is no significant discrepancy in
2 the facts as presented by the person filing the complaint or inquiry and the person who is the subject
3 of the complaint or inquiry; and the board determines that it doesn't need any additional information.
4 However, the person charged retains the right to request a hearing, which shall be open to the public.

5 (8) Require the board to have hearings at meetings, which are open to the public on
6 inquiries, which have not been dismissed pursuant to paragraph (6) of section 2-56 or resolved under
7 paragraph (7) of this section.

8 (9) Allow any person who is the subject of a complaint or inquiry to designate a
9 representative if ~~he or she~~ they wishes to be represented by someone else, to present evidence, and
10 to cross-examine witnesses. The rules shall allow the person who submitted the complaint or inquiry
11 and the subject of the complaint or inquiry sufficient time to examine and respond to any evidence not
12 presented to them in advance of the hearing;

13 (10) Require deliberations on complaints or inquiries to be conducted in closed session;

14 (11) Allow the board to dismiss a complaint or inquiry without a finding for or against the
15 subject of the complaint or inquiry if the person committed the violation due to oversight and comes
16 into voluntary compliance;

17 (12) Allow the board to dismiss a complaint or inquiry if the person who submitted it does not
18 appear at hearing and if, in the opinion of the board, it would be unfair to the subject of the complaint
19 or inquiry not to have the opportunity to examine the person. The rules shall, however, require the
20 board to schedule the hearing at a time that is reasonably convenient to both the person who
21 submitted the complaint or inquiry and the subject of the complaint or inquiry. In such a case, there
22 shall be no requirement for a public hearing regardless of the subject of the inquiry;

23 (13) Require the board to base a finding of a violation upon clear and convincing evidence;

24 (14) Require the board to inform the person who submitted the inquiry and the subject of the
25 complaint or inquiry in writing if it believes a complaint or inquiry is frivolous, groundless, or brought for
26 purposes of harassment;

27 (15) Prohibit members who have not been present for the hearing from participating in a
28 recommendation;

29 (16) Require that findings and recommendations be made only by a majority of the board;

30 (17) Allow the board to consider, when it makes findings and recommendations, the severity
31 of offense; the presence or absence of any intention to conceal, deceive, or mislead; whether the
32 violation was deliberate, negligent, or inadvertent; and whether the incident was isolated or part of a
33 pattern;

34 (18) Allow the board to issue an advisory opinion in response to a complaint or inquiry, in lieu

1 of making findings and recommendations, where deemed appropriate by the board.

2 (19) Request that the board be informed of any subsequent action by the appointing authority
3 as a result of their opinion or recommendations.

4 (b) Anonymous complaints. Upon request of a complainant, a complaint or inquiry in which
5 the identity of the complainant is kept confidential may be accepted by the board under the following
6 circumstances:

7 (1) The complaint is based upon reliable and credible evidence establishing a prima facie
8 violation of the code of ethics that is not subject to dismissal under Section 2-56(a)(6);

9 (2) The issue raised in the complaint is not pending in another forum or more appropriately
10 referred to another City agency for investigation;

11 (3) The complainant is a City officer, official or employee or a person that has or is seeking a
12 contract with the City or is doing business with or being regulated by the City; and

13 (4) The complainant has a reasonable basis for requesting anonymity.

14 (c) The board is not required to process or respond to an anonymous complaint that
15 appears frivolous on its face or submitted within forty-five (45) days of a municipal election.

16 (d) The board is not precluded from disclosing the identity of the complainant to the extent
17 necessary to conduct an initial investigation or refer the matter to another agency for further action, but
18 it must notify the complainant prior to any such disclosure.

19 (e) The board shall include in its annual report, as required in Section 2-66, the number and
20 status of any anonymous complaints received during the preceding year.

21
22 **Sec. 2-57. - Reimbursement of reasonable legal expenses.**

23 A person who is the subject of a complaint or inquiry pursuant to section 2-55 who is
24 subsequently exonerated may apply to the city attorney for reimbursement of reasonable legal
25 expenses from the "liability claims" appropriations. The city attorney shall promptly provide
26 reimbursement subject to the limitations of this section. As used in this section, the term "legal
27 expenses" shall include reasonable attorney fees, witness fees, stenographer fees, investigator fees,
28 and other direct costs in connection with the answer to a complaint or inquiry. The person applying for
29 reimbursement shall submit ~~his or her~~ their application for reimbursement to the city attorney within
30 fourteen (14) days of the board's decision. The city attorney, or in the case of a conflict, a designee of
31 the city attorney, shall determine, in ~~his or her~~ their sole discretion, the reasonableness of the legal
32 expenses. The exonerated person may not appeal or challenge the city attorney's determination with
33 the board or any other entity. The maximum reimbursement from the city shall not exceed the sum of
34 seven thousand five hundred dollars (\$7,500.00).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Sec. 2-58. - Subpoenas.

The board of ethics shall have the power to subpoena documents and to subpoena witnesses to make statements and produce documents. Persons who are subpoenaed or whose records are subpoenaed may object to testimony or production of documents based upon such information being privileged as recognized by Colorado or federal law. The board may issue a subpoena only after a written request to appear or provide records has not been complied with and after consultation with the city attorney.

Sec. 2-59. - Employment and supervision of family members.

The purpose of this section is to avoid favoritism by city officers, employees or officials to their immediate family members.

(a) Unless ~~he or she obtains~~ they obtain a waiver pursuant to section 2-54, no officer, official, or employee shall appoint or hire a member of ~~his or her~~ their immediate family for any type of employment, including, but not limited to, full time employment, part time employment, permanent employment, temporary employment, and contract employment.

(b) No officer, official, or employee shall supervise or be in a direct line of supervision over a member of ~~his or her~~ their immediate family. If an officer, official, or employee comes into a direct line of supervision of a member of ~~his or her~~ their immediate family, ~~he or she~~ they shall have six (6) months to come into compliance or to obtain a waiver pursuant to section 2-54.

(c) When waivers from this section are sought so that a member of the immediate family may be hired or may be in the direct line of supervision, it is the intent of the council that the board of ethics not unreasonably withhold waivers. Examples of circumstances which might result in a waiver include, but are not limited to:

(1) The family member who is proposed to be hired was certified through a competitive process conducted pursuant to law and the officer, official, or employee who would make the appointment did not influence or affect the certification.

(2) The officer, official, or employee who would officially make the appointment is acting ministerially and did not select the family member or attempt to influence the person who did.

(3) The family member who would be in the line of supervision was already working in the agency before the officer, official, or employee came into the line of supervision, and the officer, official, or employee can and will abstain from participating in any personnel actions involving the family member.

(d) The phrase "direct line of supervision" shall mean the supervisor of an employee and the

1 supervisor of an employee's supervisor.

2 **Sec. 2-60. - Gifts to officers, officials, and employees.**

3 The purpose of this section is to avoid special influence by donors who give gifts to city officers,
4 employees or officials.

5 (a) Except when acceptance is permitted by paragraph (b) below, it shall be a violation of
6 this code of ethics for any officers, officials, or employees, any member of their immediate families to
7 solicit or to accept any of the following items if (1) the officer, official, or employee is in a position to
8 take direct official action with regard to the donor; and (2) the city has an existing, ongoing, or pending
9 contract, business, or regulatory relationship with the donor:

10 (1) Any money, property, service, or thing of value that is given to a person without adequate
11 and lawful compensation;

12 (2) Any honoraria or payment for participation in an event;

13 (3) Any loan of goods, equipment, or other items that is not available to the general public
14 on the same terms and conditions;

15 (4) Any loan of money that is not available to the general public at the same interest rate
16 and the same conditions;

17 (5) Any ticket to a sporting, recreational, or cultural event except as provided for in
18 subsection (b)(4) of this section;

19 (6) Travel expenses and lodging;

20 (7) Any reduction in price or any discount that is not similarly available to all city officers,
21 officials, and employees on the same terms;

22 (8) Parking passes except as provided for in subsection (b)(4) of this section; and

23 (9) Meals except as provided for in subsection (b)(4) of this section.

24

25 This prohibition shall also apply to gifts from a lobbyist or representative of a client if (1) the officer,
26 official, or employee is in a position to take direct official action with regard to the client and (2) the city
27 has an existing, ongoing, or pending contract, business, or regulatory relationship with the client.

28

29 (b) Officers, officials, and employees and the members of their immediate family may accept
30 the following even if the officer, official, or employee is in a position to take direct official action with
31 regard to the donor, or, if the donor is a lobbyist or representative, the donor's client:

32 (1) Gifts from other officers, officials, or employees and their family members on appropriate
33 occasions;

34 (2) Campaign contributions as permitted by law;

1 (3) Nonpecuniary awards that are publicly presented by an organization in recognition of
2 public service if the award is not extraordinary when viewed in light of the position held by the
3 recipient;

4 (4) The donation of meals, tickets to events for which admission is charged, or free or
5 reduced price admission to events for which a fee is charged, but only under the following conditions:

6 a. The value of any meals, tickets, or free or reduced price admissions accepted
7 from the same donor in any calendar year shall not exceed three hundred dollars (\$300.00) and shall
8 be subject to the reporting requirements set forth in article V of this chapter 2;

9 b. A donation from an employee of a business or entity shall be counted as a gift
10 from the business or entity;

11 c. The individual or entity which pays for the meal, ticket, or admission shall be
12 considered the donor for purposes of this subsection regardless of whether that individual or entity is
13 reimbursed for the cost;

14 d. Attendance must be reasonably related to the official or ceremonial duties of the
15 officer, official, or employee;

16 e. The donation of parking for the meal or event shall be allowed on the same terms
17 and conditions;

18 f. Officers, officials and employees may accept the following donations of meals
19 regardless of the annual cap on the value of such meals set forth in paragraph a. of this subsection
20 and without the need to report the donation under article V of this chapter 2: meals provided to all
21 attendees at a public meeting and consumed while the meeting is in progress, including by way of
22 example "working lunches;" and meals provided to all members of any governmental, civic, or non-
23 profit board of which the officer, official or employee is a member and consumed in conjunction with
24 any meeting of the board;

25 g. Officers, officials and employees may accept the following donations of tickets or
26 free admissions to events, regardless of the annual cap on the value of such donations set forth in
27 paragraph a. of this subsection: tickets or free admission to a charitable event, as long as the ticket or
28 free admission is offered directly by and at the expense of the charitable, other non-profit, or
29 governmental entity hosting the event and not directly or indirectly offered by any sponsor of the event
30 or other donor to which the gift restriction set forth in paragraph a. of this section applies. Any ticket or
31 free admission to an event accepted under this paragraph g., shall be subject to reporting
32 requirements set forth in article V of this chapter 2.

33 (5) Unsolicited items of trivial value. "Items of trivial value" means items or services with a
34 value of twenty-five dollars (\$25.00) or less, such as inexpensive tee shirts, pens, calendars, books,

1 flowers, or other similar items and does not mean cash or gift cards;

2 (6) Gifts while visiting other cities, counties, states, or countries or hosting visitors from other
3 cities, counties, states, or countries when it would be a breach of protocol to refuse the gift;

4 (7) Reasonable expenses paid by non-profit organizations or other governments for
5 attendance at a convention, fact finding mission or trip, or other meeting if the person is scheduled to
6 deliver a speech, make a presentation, participate on a panel, or represent the city in an official
7 capacity reasonably related to the recipient's employment by the city;

8 (8) Gifts on special and infrequent occasions if the gift is appropriate to the occasion. These
9 occasions include weddings, funerals, and illnesses;

10 (9) Gifts to commemorate a public event in which the officer, official, or employee
11 participated in an official capacity, provided that the gift is appropriate to the occasion. Such occasions
12 include ground breaking ceremonies and grand openings;

13 (10) Memberships and passes from the Denver Art Museum, Denver Botanic Gardens,
14 Denver Museum of Nature and Science, and Denver Zoo;

15 (11) Gifts from family members;

16 (12) Items which are similarly available to all employees of the city or the general public on
17 the same terms and conditions.

18 (c) It shall not be a violation of this article for an officer, official, or employee to solicit or
19 accept donations to the city or to solicit, accept, or redirect donations for charitable purposes to a
20 501(c) or other charitable organization or to provide assistance to individuals affected by illness, crime
21 or disaster or who have educational or other charitable needs, provided, however, that:

22 (1) If an officer or employee soliciting such a donation is in a position to take direct official
23 action with regard to the donor; and the city has an existing, ongoing, or pending contract, business, or
24 regulatory relationship with the donor, any donation that is actually made as a result of the officer or
25 employee's solicitation is reported by the officer or employee as required in article V of this chapter 2;
26 and

27 (2) The soliciting person, or a member of the soliciting person's immediate family does not
28 keep or use the gift or receive any monetary benefit therefrom.

29 (d) It shall not be a violation of this article for a member of an officer's, official's or
30 employee's immediate family to accept a gift which arises from an independent relationship of an adult
31 member, if:

32 (1) The officer, official or employee does not use the gift; and

33 (2) It cannot reasonably be inferred that the gift was intended to influence the officer, official,
34 or employee in the performance of ~~his or her~~ their duties.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

Sec. 2-61. - Conflict of interest while employed.

The purpose of this section is to avoid influence on the official actions of city officers, employees or officials by their private or family interests.

(a) Except when advised by the city attorney that the rule of necessity applies, an officer, official, or employee shall not take direct official action on a matter before the city if ~~he or she~~they or a member of the immediate family, a business associate or an employer other than the city of the officer, official or employee has any substantial employment, contractual, or financial interest in that matter. A substantial interest shall be deemed to exist if:

(1) ~~He or she~~They or a member of the immediate family, a business associate or an employer other than the city is the other party in the matter;

(2) ~~He, she~~They, a spouse, a domestic partner or minor children solely or aggregated together, a business associate or an employer owns or own one (1) percent or more, or a member of the immediate family other than a spouse, domestic partner or minor children own or owns five (5) percent or more, of another party in the matter;

(3) ~~He or she~~They, a member of the immediate family, a business associate or an employer is a board member or an officer in another party in the matter;

(4) ~~He or she~~They, a member of the immediate family, a business associate or an employer is directly involved in obtaining the city's business for another party in the matter;

(5) ~~He or she~~They, a member of the immediate family, a business associate or an employer is directly involved in negotiating the contract or preparing the bid, proposal, response to a request for qualifications, or similar document for another party in the matter, other than in a purely clerical capacity; or

(6) A member of ~~his or her~~their immediate family performs more than a nominal portion of the work in the matter, or supervises or manages more than a nominal portion of the work.

(7) ~~He or she~~They or a member of ~~his or her~~their immediate family participated personally in providing legal representation lobbying or other professional services for another party in the matter or owns five (5) percent or more of a law firm, lobbying firm or other professional services firm representing another party in the matter.

(b) For purposes of this section, business associate means a person or entity with whom an officer, official or employee or a member of ~~his or her~~their immediate family is a partner or a co-owner of a business in which the business associate and the officer, official or employee or a member of ~~his or her~~their immediate family each own at least one (1) percent of the business.

(c) An officer, official, or employee may represent ~~himself or herself~~themselves before a city

1 board or commission in accord with such board's procedures, provided that the officer, official, or
2 employee does not also participate in the board's decision in ~~his or her~~ their official capacity.

3 (d) An officer, official, or employee may acquire an interest in bonds or other evidences of
4 indebtedness issued by the city or the board of water commissioners so long as they are acquired on
5 the same terms available to the general public.

6 (e) It shall not be a violation of this code of ethics for an officer, official, or employee to take
7 direct official action on the following matters even if the person or a relative employed by a city agency
8 would benefit:

9 (1) The city's annual budget or an amendment to the annual budget; or

10 (2) Establishing the pay or fringe benefit plans of city officers, officials, or employees.

11 (f) Officers, employees or officials who are prohibited from taking direct official action due to
12 a substantial conflict of interest shall disclose such interest to ~~his or her~~ their colleagues on a board or
13 commission or to ~~his or her~~ their supervisor or appointing authority, shall not act or vote thereon, shall
14 refrain from attempting to influence the decisions of others in acting or voting on the matter and shall
15 work with ~~his or her~~ their supervisor or appointing authority to ensure that the matter is assigned to
16 someone without conflicting interests.

17 (g) No officer, employee or official may have any other employment or position which is
18 incompatible with ~~his or her~~ their duties or that adversely affect the interests of the city.

19

20 **Sec. 2-62. - Prior employment.**

21 The purposes of this section are:

22 (1) To indicate that persons are not disqualified from a city job because of prior employment;

23 (2) To avoid special advantage being given to former employers of city officers, employees
24 or officials; and

25 (3) To avoid special advantage being given to a city officer, employee, or official by a former
26 employer.

27 No person shall be disqualified from service with the city as an officer, official, or employee solely
28 because of ~~his or her~~ their prior employment. Officers, officials, and employees shall not take any
29 direct official action with respect to their former employers for a period of six (6) months from the date
30 of termination of the prior employment.

31

32 **Sec. 2-63. - Outside employment or business activity.**

33 The purpose of this section is to avoid possible conflicts of interest and time conflicts between city jobs
34 and outside employment or business activity.

1 (a) All officers other than elective officers and all employees shall report existing or
2 proposed outside employment (excluding unpaid volunteer activity) or other outside business activity
3 annually in writing to their appointing authorities and obtain ~~his or her~~ their appointing authority's
4 approval thereof prior to accepting initial employment or outside business activity. All officials shall
5 immediately report any change in employment status to their appointing authorities which could give
6 rise to a conflict of interest.

7 (b) If the appointing authority or the officer, official or employee believes that there is a
8 potential conflict of interest between the person's public responsibility and ~~his or her~~ their possible
9 outside employment or outside business activity, he, she or they are encouraged to consult the board
10 of ethics.

11 (c) An officer or employee who has received the written permission of the appointing
12 authority may engage in outside employment or other outside business activity. If, however, the board
13 has rendered an advisory opinion to an officer, employee or official and/or an appointing authority, and
14 the board has reason to believe that the officer, employee or official has not complied with the opinion,
15 the board shall notify the appointing authority and the appointing authority shall report to the board in
16 executive session regarding the action, if any, taken with respect to the person.

17 (d) Copies of documents arising from this section shall be placed in each officer's or
18 employee's departmental personnel file.

19 (e) City resources may not be used for any outside employment or outside business activity.
20

21 **Sec. 2-64. - Subsequent employment.**

22 The purpose of this section is to avoid the actuality or appearance that employers who hire former city
23 officers or employees may get special treatment.

24 (a) During six (6) months following termination of office or employment, no former officer,
25 official, or employee shall obtain employment outside of the city government in which ~~he or she~~ they
26 will take direct advantage, unavailable to others, of matters with which ~~he or she~~ they took direct
27 official action during ~~his or her~~ their service with the city.

28 (b) For one (1) year following termination of service with the city, no former officer, official, or
29 employee shall engage in any action or litigation in which the city is involved, on behalf of any other
30 person or entity, when the action or litigation involves an issue on which the person took direct official
31 action while in the service of the city.
32

33 **Sec. 2-65. - Employee training.**

34 (a) At least annually, the board of ethics shall prepare and distribute and periodically update

1 an employee handbook on this code of ethics, after obtaining the city attorney's review. In addition to
2 the annual updates, the board may disseminate any change in policy that results from a finding of the
3 board if it applies to other city employees.

4 (b) Every appointing authority shall give a copy or electronic version of the handbook and
5 any updates to each employee annually and shall provide training to employees regarding the code of
6 ethics.

7

8 **Sec. 2-66. - Annual report.**

9 By February 15 of each year, the board of ethics shall submit an annual report to the mayor and
10 council summarizing its activities during the previous calendar year. The report shall include any
11 recommendations for modifying the code of ethics.

12

13 **Sec. 2-67. - Use of public office for private gain.**

14 No officer, official or employee shall use ~~his or her~~ their public office or position or disclose or use
15 confidential information in order to obtain private gain for ~~himself or herself~~ themselves, for ~~his or her~~
16 their immediate family, for any business entity with which ~~he or she is~~ they are affiliated or for any
17 person or entity with whom the officer, official or employee is negotiating or has any arrangement
18 concerning prospective employment.

19

20 **Sec. 2-68. - Use of confidential records.**

21 No officer, official or employee may disclose any information or records that are not available to the
22 public, which were acquired in the course of official duties, except in the performance of official duties
23 or as required by law or court order.

24

25 **Sec. 2-69. - Aiding others.**

26 No officer, official or employee may knowingly aid or assist any officer, official or employee in the
27 violation of any provision of this code of ethics.

28

29

30 COMMITTEE APPROVAL DATE: _____, 2021.

31 MAYOR-COUNCIL DATE: _____, 2021.

32 PASSED BY THE COUNCIL _____ 2021

33 _____ - PRESIDENT

1 APPROVED: _____ - MAYOR _____ 2021

2 ATTEST: _____ - CLERK AND RECORDER,
3 EX-OFFICIO CLERK OF THE
4 CITY AND COUNTY OF DENVER
5

6 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2021; _____ 2021
7

8 PREPARED BY: Lori Weiser, Board of Ethics Exec. Director_; DATE: 4/6/2021
9

10 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
11 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
12 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
13 3.2.6 of the Charter.
14

15 Kristin M. Bronson

16 City Attorney
17

18 BY: _____, _____ City Attorney DATE: _____